

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CURWOOD L. PRICE,
Plaintiff,

Case No. 05-71403

vs.

Honorable Chief Judge Bernard A. Friedman
Magistrate Judge Steven D. Pepe

PATRICIA CARUSO,
Defendant.

/

**ORDER DENYING PLAINTIFF'S MOTIONS FOR DISCOVERY (Dkt. #50, 42) AND
GRANTING DEFENDANT'S MOTION TO STAY DISCOVERY (Dkt. #46)**

These motions were referred to the undersigned for hearing and determination pursuant to 28 U.S.C. §636(b)(1)(A).

Plaintiff is a prisoner at Muskegon Correctional Facility. The remaining count in his complaint is one for monetary damages against Defendant under RLUIPA, regarding a prison policy he alleges denies Plaintiff the ability to properly observe the weekly Sabbath and annual Passover Seder by barring intercomplex travel.

In his present motions Plaintiff indicates that he seeks (a.) a memo issued this year which allegedly bars Jewish inmates from receiving any holiday meals not specifically related to Judaism (the “Memo”) (Dkt. #50), (b.) various information and documents (Dkt. #42) and an expedited scheduling order (Dkt. # 49). Defendant seeks a stay of discovery (Dkt. #46).

Regarding the Memo, Plaintiff has not attached a “verbatim recitation” of the discovery request he has submitted to Defendant seeking this information and has not certified that he has “in good faith conferred with or attempted to confer with the party not making the [requested] disclosure in an effort to secure the disclosure without court action” as required by E.D.Mich. LR 37.2 and Fed.

R. Civ. P. 37(a)(2)(A). Therefore, because it appears that Plaintiff has not first submitted his discovery request to Defendant, Plaintiff's motion (Dkt. #50) is DENIED.¹

Defendant's motion seeks a stay of discovery pending the disposition of the parties' motions for reconsideration of their respective motions to dismiss. Defendant's motion (Dkt. # 46) is GRANTED. Discovery is stayed pending resolution of the motions for reconsideration.

Regarding the information and documentation sought by Plaintiff from Defendants in Dkt. #42, a review of this "motion" reveals that it was likely meant to be a discovery request and not a motion to compel. While there is a verbatim recitation of the items/information sought, there is, again, no indication that Defendant has failed to comply with this request or that the parties have conferred without resolution. Therefore, to the extent Dkt. #42 was meant to be a motion to compel, it is DENIED.² Defendant shall treat the Request as a formal request for discovery and shall respond as required by the Federal Rules of Civil Procedure, should the stay on discovery be lifted.

SO ORDERED.

Dated: December 7, 2006
Ann Arbor, Michigan

Steven D. Pepe
United States Magistrate Judge

¹ For future reference, proper discovery requests must be submitted to an appropriate party requesting the information and/or tangible item(s) sought. Leave of the court to compel production may only be sought when access to the requested information or item(s) is denied or goes unanswered.

² For future reference, discovery requests are not to be filed with the court unless they form the factual basis for a motion or pleading, at which time they are to be attached as an exhibit to the motion or pleading. E.D.Mich. LR 26.2.

CERTIFICATE OF SERVICE

I hereby certify that on December 7, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Julia R. Bell, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Curwood Price #220572, Southern Michigan Correctional Facility.

s/ James P. Peltier
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